

**53B-8a-103. Creation of Utah Educational Savings Plan -- Powers and duties of plan -- Certain exemptions.**

(1) There is created the Utah Educational Savings Plan, which may also be known and function as the Utah Educational Savings Plan Trust.

(2) The plan:

(a) is a non-profit, self-supporting agency that administers a public trust;

(b) shall administer the various programs, funds, trusts, plans, functions, duties, and obligations assigned to the plan:

(i) consistent with sound fiduciary principles; and

(ii) subject to review of the board; and

(c) shall be known as and managed as a qualified tuition program in compliance with Section 529, Internal Revenue Code, that is sponsored by the state.

(3) The plan may:

(a) make and enter into contracts necessary for the administration of the plan payable from plan money, including:

(i) contracts for goods and services; and

(ii) contracts to engage personnel, with demonstrated ability or expertise, including consultants, actuaries, managers, counsel, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice;

(b) adopt a corporate seal and change and amend it from time to time;

(c) invest money within the program, administrative, and endowment funds in accordance with the provisions under Section 53B-8a-107;

(d) enter into agreements with account owners, any institution of higher education, any federal or state agency, or other entity as required to implement this chapter;

(e) solicit and accept any grants, gifts, legislative appropriations, and other money from the state, any unit of federal, state, or local government, or any other person, firm, partnership, or corporation for deposit to the administrative fund, endowment fund, or the program fund;

(f) make provision for the payment of costs of administration and operation of the plan;

(g) carry out studies and projections in order to advise account owners regarding present and estimated future higher education costs and levels of financial participation in the plan required in order to enable account owners to achieve their educational funding objective;

(h) participate in federal, state, local governmental, or private programs;

(i) create public and private partnerships, including investment or management relationships with other 529 plans or entities;

(j) promulgate, impose, and collect administrative fees and charges in connection with transactions of the plan, and provide for reasonable service charges;

(k) procure insurance:

(i) against any loss in connection with the property, assets, or activities of the plan; and

(ii) indemnifying any member of the board from personal loss or accountability arising from liability resulting from a member's action or inaction as a member of the plan's board;

- (l) administer outreach efforts to:
    - (i) market and publicize the plan and its products to existing and prospective account owners; and
    - (ii) encourage economically challenged populations to save for post-secondary education;
  - (m) adopt, trademark, and copyright names and materials for use in marketing and publicizing the plan and its products;
  - (n) administer the funds of the plan;
  - (o) sue and be sued in its own name;
  - (p) own institutional accounts in the plan to establish and administer:
    - (i) scholarship programs; or
    - (ii) other college savings incentive programs, including programs designed to enhance the savings of low income account owners investing in the plan; and
  - (q) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this chapter.
- (4) (a) Except as provided in Subsection (4)(b), the plan is exempt from the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.
- (b) (i) The annual audited financial statements of the plan described in Section 53B-8a-111 are public records.
- (ii) Financial information that is provided by the plan to the Division of Finance and posted on the Utah Public Finance Website in accordance with Section 63A-3-402 is a public record.

Amended by Chapter 46, 2011 General Session  
Amended by Chapter 342, 2011 General Session